

Serial No. 09/919,864

Reply to Office Action dated February 26, 2004

**REMARKS/ARGUMENTS**

Initially, Applicant would like to thank the Examiners for the courtesies extended during the interview of April 29, 2004. During the interview, claims 1 and 11 were discussed versus the prior art references U.S. Patent No. 6,587,739 to Abrams et al., U.S. Patent No. 5,839,097 to Klausner and U.S. Patent No. 6,502,265 to Blair. During the interview, a fair amount of time was spent discussing the interpretation of the word "advertising." The Applicant brought a copy of Webster's Third New International Dictionary's definition of the word "advertising", while the Examiner provided a copy of Webster's OnLine definition of "advertising" (see attached). Based on the Examiner's copy of the definition, Applicant argued that the claims when read in view of the specification refer to the definition 2c which reads in part "to call public attention to especially by emphasizing desirable qualities so as to arouse a desire to buy or patronize." However, the Examiner declined to use this interpretation.

Also discussed during the interview was the scope of the word "household appliance." A Supervisory Examiner present at the interview suggested that claims 1 and 11 could possibly read on a television in an electronic show when the television is displaying some type of advertising regarding buying that television. While the Applicant would concede such an argument is probable better than any of those made of record, the Applicant would note no such rejection has actually been made of record. If the Examiners wish to make such a rejection, Applicant respectfully submits that the rejection should be made in writing in a non-final rejection. Regardless, the suggestion made by the Examiner is now reflected in the amendments to claims 1 and 11 as discussed more fully below.

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**Amendments**

By the present amendment, it is proposed to amend claims 1 and 11 to specify that the household appliance is selected from the group consisting of: a washing machine, a dryer, a dishwasher, a range and a refrigerator. Additionally, the claims have been amended to indicate that the advertising mode will call public attention to the appliance to emphasize desirable qualities of the appliance so as to arouse a desire to buy the appliance. It is respectfully submitted that these amendments raise no new issues. The term "household appliance" has been defined on page 2, lines 17-19. Furthermore, this limitation has been added to address the Examiner's concern raised during the interview regarding a possible rejection verses television sets. Therefore, Applicant respectfully submits that if such a rejection is not being made in a non-final rejection, at the very least, consideration should be given to such an amendment here.

Regarding the amendment designed to clarify the term "advertising mode," once again this amendment is simply incorporating the definition of advertising into the claim. As such, it should not vary the scope of the claims and therefore does not raise any new issues. The Examiner's attention is drawn to page 1, lines 9-12 wherein the specification indicates that manufacturers of products rely upon advertising to make consumers aware of their products and gives examples, such as commercials, magazine and newspaper ads, advertising stickers, packaging and the like to bring attention to products. Additionally, the Examiner's attention is drawn to page 10, lines 7-20 which talks about the advertising mode in terms of educating a consumer on special features and advantages of the appliance. Note also the specification indicates that it is important to adequately inform a consumer as to the benefits of the product in order to enable a consumer to make an educated buying decision. See page 2, lines 1-2. Finally, this point has already been raised in the prosecution of this application to date.

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Even if the Examiner does decide such amendments would raise new issues requiring further searching, at the very least, the Applicant requests some type of indication as to whether these amendments would render the claims allowable over the art presently in the case.

**Rejections Under 35 U.S.C. § 112, first and second paragraphs**

Applicant notes that the Examiner has withdrawn the rejections of claims 4, 5 and 18-20 which were previously rejected under 35 U.S.C. § 112, first and second paragraphs.

**Rejections under 35 U.S.C. § 102(b)**

While not explicitly stated, claims 1, 8 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Klausner (U.S. Patent No. 5,839,097). As understood in regards to claims 1 and 11, the Examiner is reading dishwasher 14 in Figure 2 as being a cabinet, display 22 in Figure 2 as being a display mounted to the cabinet, and keyboard 23 as being a control means for establishing an advertising mode of operation. It is this last limitation regarding an advertising mode of operation which is particularly not present in the prior art.

The Klausner patent discusses in column 5, lines 27-40 the ability of a display of an appliance to show errors and information on how the consumer itself can eliminate the errors, as well as for the consumer to do remote diagnosis via a modem. It is respectfully submitted that the information provided in the Klausner reference provides instruction to the consumer who has already purchased the unit, rather than advertising features of the appliance to educate the consumer with information which may be utilized in connection with purchasing the appliance. The claims as originally presented recite an advertising mode which, when read in conjunction with the specification, clearly indicates a mode of operation designed to call public attention to the appliance by emphasizing desirable

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qualities of the appliance so as to arouse a desire by the consumer to buy the appliance.

It is interesting to note that, during the interview, Applicant's representative repeatedly inquired if the Examiner could suggest any wording other than the word "advertising." No answer was forthcoming. The Applicant is open to suggestions on how to cover this allowable feature in terms of language acceptable to the Examiner that would clearly spell out this patentable distinction. Until such a suggestion is forthcoming, Applicant has proposed to amend the claims to incorporate the relevant portion of the definition of the word "advertising" into the claims. Hopefully, this definition, in combination with identifying the group of appliances as set forth in the specification, will meet the approval of the Examiner.

Claims 1-8, 11-14, 18 and 19 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Blair et al. (U.S. Patent No. 6,502,265). Once again, Applicant would point out that the '265 patent does not set forth any disclosure on an advertising mode of operation. Although the Examiner references various sections, such as column 2, lines 56-64, these sections merely discuss displaying digital screens to a consumer concerning certain interactive aspects of the appliance. These display screens are associated with actually utilizing the appliance in the home after a purchase has been made and not concerned with advertising the appliance in a manner analogous to that of the present invention. Contrary to what the Examiner sets forth in the Office Action, there is simply no "control means for establishing an advertising mode of operation" as originally claimed or as claimed in the proposed amendment. In accordance with M.P.E.P. § 2182, the application of the prior art to a means-plus-function limitation requires that the prior art perform the "identical function." For this reason, it is respectfully submitted that this patent does not at all anticipate the present invention.

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**Rejections Under 35 U.S.C. § 103(a)**

Initially, the Applicant notes the appreciation that the Examiner has withdrawn the rejection of claim 2 as being obvious over the Blair patent which is assigned on its face to Maytag Corporation, the assignee of the present application.

Claims 1, 8, 11, 14, 15 and 18-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Abrams et al. (U.S. Patent No. 6,587,739) in view of Klausner. In response to Applicant's arguments of January 24, 2004 which are incorporated herein by reference, the Examiner has argued that "any kind of advertising information could be downloaded from the Internet including information for educating a consumer about the appliance itself." Indeed, Applicant agrees that advertising information could be downloaded from the Internet including information for educating the consumer about the appliance itself. However, neither Abrams nor Klausner actually teach downloading advertising information. Therefore Applicant respectfully submits these references do not anticipate or render obvious the claims as originally presented or in their amended form. In addition, any downloading would again be after the appliance was purchased, thereby obviating the purpose of the invention.

**Summary**

In summary, it would appear that the Examiner simply will not give any weight to the words "advertising mode" or "advertising information" despite the clear dictionary definition, and the clear definition in the specification as pointed out above. Instead, the Examiner has found that the broadest reasonable interpretation of an advertising mode includes any display in a household appliance which provides information concerning the household appliance. The Interview Summary outlines that there is a "disagreement as to the definition of "advertising." Simply stated, there should be no disagreement. The Applicant is entitled to be their own lexicographer and the Examiner should accept the

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Applicant's definition. For the reasons given above, Applicant respectfully submits that weight should be given to the control means for establishing an advertising mode of operation especially in view of the fact that the claim is in a means-plus-function format and that such limitations cannot be found in any the prior art presently of record in the case. Therefore, Applicant respectfully requests that the Examiner either allow the case with the claims as originally presented, allow the case with the proposed amendments to claims 1 and 11 or, at the very least, allow entry of these amendments for purposes of appeal.

Of course, if the Examiner should have any further concerns regarding allowance of this application or has any suggestions which would render the application allowable, he is cordially invited to contact the undersigned at the number provided below in order to further the prosecution of this application.

Respectfully submitted,



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advertising

Main Entry: **ad·ver·tise**

Pronunciation: 'ad-v&r-'tīz

Function: *verb*

Inflected Form(s): -tised; -tis·ing

Etymology: Middle English, from Middle French *advertiss-*, stem of *advertir*

*transitive senses*

1 : to make something known to : **NOTIFY**

2 a : to make publicly and generally known <*advertising* their readiness to make concessions> b : to announce publicly especially by a printed notice or a broadcast c : to call public attention to especially by emphasizing desirable qualities so as to arouse a desire to buy or patronize : **PROMOTE**

*intransitive senses* : to issue or sponsor **advertising**

- ad-ver-tis·er *noun*

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